

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
SEP 22 2021	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

1 Ramon Murga
2 [print name above]

3 High Desert State Prison
4 [name of prison, jail or other detention facility]

5 83082
6 [booking number at prison, jail or other detention facility]

7 Po Box 650
8 [street address or P.O. Box]

9 Indian Springs NV 89070
10 [city, state, and zip code]

2:21-cv-01743-APG-BNW

11 Appearing Pro Se

12 IN THE UNITED STATES DISTRICT COURT

13 FOR THE DISTRICT OF NEVADA

14 Ramon Murga
15 [print name]

16 Petitioner,

17 v.

18 Brian E Williams, SR.
19 [warden of facility in which you are incarcerated]

20 Respondent.

No. _____
[Write in case number, if you have one. If you are mailing this to the court with a new petition and do not have a case number, leave this blank for court clerk to fill in]

EX-PARTE
REQUEST FOR APPOINTMENT OF
COUNSEL IN A FEDERAL HABEAS CORPUS
CASE

21 **I. Introduction**

22 Petitioner Ramon Murga [print name] hereby respectfully
23 requests that the Court appoint counsel to represent him/her in this matter.

24 Habeas corpus proceedings "are of fundamental importance . . . in our constitutional scheme
25 because they directly protect our most valued rights." *Brown v. Vasquez*, 952 F.2d 1164, 1169 (9th Cir.
26 1991) (quoting *Bounds v. Smith*, 430 U.S. 817, 827 (1977)) (citations and internal quotations omitted).
27 Consequently, pursuant to 18 U.S.C. § 3006A(a)(2)(B), this Court has the authority to appoint counsel to

1 assist an indigent Petitioner if the interests of justice so require. In the present case, Petitioner does not
 2 have the financial resources to retain counsel. See Application to Proceed Without Prepayment of Fees
 3 and Affidavit (In Forma Pauperis). Rule 8(c) of the Habeas Rules makes clear that district judges have the
 4 discretion to order “the appointment of counsel under [the Criminal Justice Act] at any stage of the
 5 proceeding.”

6 In deciding whether to appoint counsel, this Court must “evaluate [1] the likelihood of success on
 7 the merits as well as [2] the ability of the petitioner to articulate his claims pro se in light of the
 8 complexity of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); *accord*
 9 *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997). As discussed at length in one treatise,
 10 the courts generally have endorsed the appointment of counsel to represent indigent and legally
 11 unsophisticated prisoners in the following types of non-capital cases:

12 (1) Cases that turn on substantial and complex procedural, legal or mixed legal and factual
 13 questions (e.g., the fair composition of grand and petit juries, the voluntariness of
 confessions, and the effective assistance of counsel).

14 (2) Cases involving uneducated or mentally or physically impaired petitioners.

15 (3) Cases likely to require the assistance of experts either in framing or in trying the claims.

16 (4) Cases in which “the indigent is in no position to investigate crucial facts.”

17 (5) Factually complex cases, e.g., ones involving “conflicting testimony,” in which the truth
 18 is more likely to “be exposed where both sides are represented by those trained in the
 presentation of evidence.”

19 1 R. Hertz & J. Liebman, *Federal Habeas Corpus Practice and Procedure*, § 12.3 (5th ed. 2005) (internal
 20 quotations and citations omitted, numbering altered).

21 In addition, appointment of counsel is mandatory for indigent noncapital petitioners (a) when
 22 counsel is “necessary for effective [use of the] discovery”¹ and (b) pursuant to Habeas Rule
 23 8(c), if the district court determines that “an evidentiary hearing is warranted.”²

24 As set forth below, appointment of counsel is appropriate in this case.

27 ¹ Rule 6(a) of the Rules Governing Section 2254 Cases in the United States District Courts.

28 ² Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts.

1 IA Additional Relevant Facts and Procedural History

2 Petitioner was convicted of: [List all offense(s) for which you were convicted]

3 Conspiracy to Violate Uniform Act C-1 and Count 2, High Level Trafficking

4 Length of terms of sentence(s):

5 10 to 25 years

6 A. DIRECT APPEAL

7 Petitioner DID/DID NOT [circle one] file a Direct Appeal.

8 Petitioner WAS/WAS NOT [circle one] Represented by Counsel or N/A.

9 Petitioner raised [number] of issues on Direct Appeal or N/A.

10 B. STATE HABEAS

11 Petitioner DID/DID NOT [circle one] file a state habeas petition.

12 Petitioner WAS/WAS NOT [circle one] Represented by Counsel or N/A.

13 Petitioner raised [number] issues in the state habeas,
which also included [number] claims of ineffective
assistance of counsel.

14 C. APPEAL OF DENIAL OF STATE HABEAS

15 Petitioner DID/DID NOT [circle one] appeal the denial of habeas.

16 Petitioner WAS/WAS NOT [circle one] Represented by Counsel or N/A.

17 D. OTHER PROCEEDINGS:

18 Petitioner also presented the following issues to the Nevada
Supreme Court (If Applicable)(i.e. appeal of Motion to Modify)

19 1.

20 2.

21 3.

22 4.

23 5.

24 * = Petitioner was represented by Counsel in 1-5.

[place a [*] next to all that apply]

25 Petitioner WAS/WAS NOT allowed DISCOVERY [circle all that apply]:

DIRECT APPEAL / STATE HABEAS / OTHER [name]

[or list # 1-5]

26 Petitioner WAS/WAS NOT provided a Hearing [circle all that apply]:

27 DIRECT APPEAL (oral argument)/HABEAS (evidentiary)/OTHER

[or list 1-5]

1 II. Argument

2 A. Appointment of counsel is appropriate because this case involves substantial and complex
3 procedural, legal or mixed legal and factual questions.

4 [If your case involves substantial or complex legal and factual issues, explain]

5
6 it involve a Scheme for categorizing meth
7 From Schedule 2 to Schedule-1 for a harder
8 Punishment. Depending on circumstances of manufac-
9 turing was the State required to prove that the Substance
10 Seized in this case was Schedule-1 as an element of
11 the Crime under Figueroa-Beltran, 136 Nev Advance
12 Opinion 45

13
14
15
16
17
18 B. Appointment of counsel is appropriate because petitioner lacks education or is mentally
or physically impaired.

19 [If you lack education or are physically or mentally disabled/impaired, explain]

20
21 is hard to Comprehend Because There is
22 a Language barrier
23
24
25
26
27
28

1 C. Appointment of counsel is appropriate because this case will probably require the
2 assistance of experts either in framing or in proving the claims.

3 [If you will need the assistance of an expert (e.g. a psychologist, a scientist) to explain your claim or to help you prove your
4 claim, explain]

5 it Requires the Board of Pharmacy and
6 expert
7
8
9
10
11
12
13
14

15 D. Appointment of counsel is appropriate because the petitioner is indigent and is in no
16 position to investigate crucial facts.

17 [If you will have difficulty investigating the facts in your case because you lack money to hire an investigator and you cannot do
18 your own investigation because, for example, you are in prison, explain]

19 I Dont have any money to pay for representation
20 of an Attorney that can investigate
21
22
23
24
25
26
27
28

E. Appointment of counsel is appropriate because this is a case in which the parties dispute the facts, and thus the truth is more likely to "be exposed where both sides are represented by those trained in the presentation of evidence."

[If your case involves disputed facts (for example you and the government dispute whether you rejected a plea offer), explain]

Because is going to expose a schem for a harder punishment that the State is using till This Day

F. LIMITATIONS OF THE HDSP LAW LIBRARY AND MAILING SYSTEM

Petitioner is currently incarcerated at HDSP and is housed in Unit 5B, which is classified as Level 2.

1. Limitations of the HDSP Law Library

As of the date of the filing of this Motion, Unit 5, is Level 2, only has access to the HDSP law library on

(day) from _____ to _____ (time) and on _____ (day) from _____ to _____ (time) or HAS NO DIRECT ACCESS (circle if applicable).

The law library only allows up to 25 inmates per session out of approximately 300 + inmates. Requests must be submitted one week in advance for consideration to be placed on an approved list. If your unit has access you are required to attend the law library in order to check out cases, research materials, forms, obtain any copies and seek the assistance of law clerks. No requests may be filled by mail.

1 Up to 10 items may be checked out at a time. No books are
2 available for checkout and cases and statutes are only available
3 on a computer retrieval system which has approximately 7 available
4 stations for 25 inmates, first come, first served.

5 The inadequacies of the NDOC law library system has been lit-
6 igated in Koershner v. Warden, 508 F.Supp. 2d 849 (Nev. 2007) and
7 other cases, See, Moxley v. Neven, 2:07-cv-01123-RLH-GWF (D. Nev.
8 Sep. 30, 2010, cited in Felix v. McDaniel, 2012 U.S. Dist. Lexis
9 25890.

10 2. Limitations of the HDSP Mailing System

11 As of March of 2012, outgoing legal mail is not logged at
12 HDSP. If an inmate sends mail by a brass slip to cover the cost
13 a further delay of 1-2 days occurs while the brass slip is proce-
14 ssed. If stamps are used to mail out legal mail there is no record
15 of it kept at HDSP. Inmates are also limited in the amount of
16 stamps that they are allowed to purchase and possess and there is
17 no method in the units to determine sufficient postage for items
18 which may require excess postage.

19 Incomming mail, while logged, is subject to delays and is
20 often delivered after the close of afternoon tier. Therefore any
21 response is delayed as the outgoing mail is delivered to the post
22 office for delivery the next business day it is placed in internal
23 mailboxes.

24 As to the above Law Library and Mail policies, I have been
25 prejudiced or harmed as follows: [Explain if Applicable]
26
27
28

Argument F - Continued.

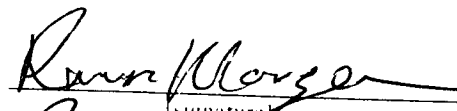
G. Any Additional Factors for the Court's Consideration.
[Explain any other reasons for appointment of counsel,
if applicable]

III. Conclusion

This Court has the authority and should appoint counsel for Petitioner pursuant to 18 U.S.C. §3006A (a)(2)(B). Appointment of counsel will serve the interests of justice and judicial expedience and economy.

Respectfully submitted,

Dated: 9-20-2021


[signature]
Ramon Murga 83082
[type or print name]